

REMARKS

This responds to the Office Action mailed May 11, 2009.

Claims 1, 3-6, 10, 18, 21, 30 - 32, and 36 - 40 are amended, no claims are canceled, and no claims are added; as a result, claims 1, 3-15, and 18-40 are now pending in this application.

Objections to the Claims

Claims 3-6, 10, and 18 were objected to as being dependent on a cancelled claim. Claims 3-6, 10, and 18 have been amended herein to correct the noted dependency problem. Thus, the Applicants therefore respectfully request withdrawal of the claim objections.

§ 112 Rejection of the Claims

Claims 1, 21, 30, 32, 36 - 38, and 40 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Claims 1, 21, 30, 32, 36 - 38, and 40 have been amended herein to clarify the noted indefiniteness. Thus, the Applicants therefore respectfully request withdrawal of the §112 rejections.

§103 Rejection of the Claims

Claims 1-15, 18-24, 27-29, and 30-40 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Ding et al. (U.S. Patent No. 6,691,067) in view of Eder et al. (U.S. Publication No. 2001/0041996).

Claims 17, 25, and 26 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Ding et al. (U.S. Patent No. 6,691,067) as applied to claims 2, 9, and 21 above in view of Hattori et al. (U.S. Patent No. 6,557,025).

Applicants respectfully submit that the Office Action did not make out a *prima facie* case of obviousness for at least the following reasons. Even if combined, the cited references fail to teach or suggest all of the claimed elements of Applicants' claimed embodiments.

In examining claims under 35 U.S.C. § 103(a), it is necessary for the Examiner to establish a proper *prima facie* case of obviousness before rejecting a claim as required by the Board of Patent Appeals and Interferences (BPAI). Such a rejection cannot be made if there is no

evidence or suggestion in a cited reference of a claimed configuration. Ex Parte Katoh et al., Appeal 20071460, Decided May 29, 2007. Further, it is improper to reject a claim when there is no suggestion to combine the teachings of the cited references, except from using the Applicants' invention as a template through hindsight reconstruction of the Applicants' claims. Ex Parte Crawford et al., Appeal 20062429, Decided May 30, 2007. Moreover, a patent composed of several elements is not proved obvious merely by demonstrating that each element was, independently, known in the prior art *KSR Int'l v. Teleflex Inc.*, 127 S. Ct. 1727 (2007). See also M.P.E.P. § 2142. "[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." (See *In re Kahn*, 441 F. 3d 977, 988 (CA Fed. 2006) cited with approval in *KSR Int'l v. Teleflex Inc.*, 127 S. Ct. 1727, 1740-41 (2007)).

Moreover, the recent U.S. Supreme Court decision of *KSR v. Teleflex* provides a tripartite test to evaluate obviousness. "A rationale to support a conclusion that a claim would have been obvious is that ***all the claimed elements were known*** in the prior art and one skilled in the art could have combined the elements as claimed by known methods ***with no change in their respective functions***, and ***the combination would have yielded nothing more than predictable results*** to one of ordinary skill in the art." (See *KSR International Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 82 U.S.P.Q.2d 1385 (2007)). Emphasis added.)

Eder describes an automated system and method for measuring the performance of elements of a business enterprise and for valuing said elements on a specified valuation date. However, as admitted in the Office Action at page 4:

Eder does not disclose the executable agents being organized in accordance with a network model and ... delivering the processed data among the agents to enable assembly of the body of aggregated and summarized information that is provided through the application used to manage an enterprise, based on the processed data, to be used to manage aspects of the enterprise. (Emphasis added).

Ding describes a system and method for estimating statistics concerning system metrics to provide for the accurate and efficient monitoring of one or more computer systems. The system preferably comprises a distributed computing environment, i.e., an enterprise, which comprises a plurality of interconnected computer systems. At least one of the computer systems is an agent computer system which includes agent software and/or system software for the

collection of data relating to one or more metrics, i.e., measurements of system resources. Metric data is continually collected over the course of a measurement interval, regularly placed into a registry of metrics, and then periodically sampled from the registry indirectly.

However, Ding does not teach or suggest, “the executable agents being organized in accordance with a network model, the executable agents being of a type from the group of: data extractor, data transformer, and information change monitor; and providing a modeling layer including a business entity model to map a universal model into a native model in the context of the enterprise...” This aspect of the claimed embodiments is described in the originally filed patent specification of the present application at least at page 6. Neither Ding nor Eder describe or suggest mapping a universal model into a native model in the context of the enterprise. Each of the pending claims has been amended to include these elements. As such, the pending claims are patentable over Eder and Ding. The Applicants therefore respectfully request withdrawal of the § 103(a) rejections with respect to claims 1-15, 18-24, 27-29, and 30-40.

Hattori describes a planning section that generates a plan to be executed by agents on a node. In the case where the plan generated uses an uncertain knowledge required to be processed in other nodes, a judging section judges the communication line connecting the node and a network is low or high in reliability. In the case where the reliability of the communication line is low, an agent management unit moves the agent for executing the plan to another node for processing the uncertain knowledge. In the case where the reliability of the communication line is high, on the other hand, a cooperation protocol realization section requests an agent on another node to process the uncertain knowledge. An agent execution means executes the plan generated.

However, Hattori does not disclose or suggest the idea that agents are organized in accordance with a network model. Hattori does not disclose or suggest agents being of a type from the group of: data extractor, data transformer, and information change monitor. Hattori does not disclose or suggest providing a modeling layer including a business entity model to map a universal model into a native model in the context of the enterprise. Hattori merely mentions that agents can cooperate with each other using a standard inter-agent cooperation technique. In other words, Hattori describes agents that can communicate with each other. However, there is no disclosure or teaching in Hattori of agents conforming to the network model as presently claimed. Hattori does not describe or suggest these elements. Eder does not describe or suggest

these elements as Eder admittedly does not describe the delivery of processed data among agents. Ding lacks a disclosure of these elements as well. The pending claims have been amended to include these non-obvious elements. Thus, for the reasons explained above, Ding, Eder, and Hattori, alone or in combination lack a disclosure or suggestion of all claimed elements and thus do not render obvious the embodiments claimed in the pending claims.

Further, Ding does not disclose or suggest the use of a cube as currently claimed in claims 31 and 39 and claims dependent thereon. Ding does not disclose or suggest, “storing and updating, in a cube, multi-dimensional current data” or “storing, in a cube, data defining relationships between metrics” or “storing, in a cube, metadata about the multi-dimensional current data” or “using the cubes to access current data in responding to queries” as currently claimed in claims 31 and 39 and claims dependent thereon. Thus, Ding alone or in combination with Eder does not render obvious the presently claimed embodiments of claims 31 and 39 and claims dependent thereon. The Applicants respectfully request withdrawal of the §103(a) rejections.

CONCLUSION

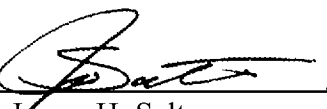
Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's representative at (408) 406-4855 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on August 11, 2009.



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